



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 13 1999

REPLY TO THE ATTENTION OF:

WS-15J

Chairman Robert Peacock
Fond du Lac RBC
105 University Road
Cloquet, MN 55720

Re: Clean Water Act Section 401 Water Quality Certifications

Dear Chairman Peacock:

The Fond du Lac Band's Environmental Department has been making excellent progress this year in planning the Band's water quality monitoring activities and in developing Water Quality Standards (WQS). We commend Chris Berini and Nancy Costa for their work in this area.

With the substantial progress being made in the development of approvable WQS, I wanted to communicate with you regarding Clean Water Act Section 401 Water Quality Certifications. For Tribes which have Clean Water Act Section 303 program approval (i.e., Treatment as a State for the WQS program) and approved standards, one of the ways the Tribes can implement their WQS is through 401 Water Quality Certifications. As the Fond du Lac Band moves toward approval of your WQS, Region 5 would like to update our 303 program approval file to make sure it is clear when and how the Band will be implementing the Section 401 Water Quality Certification program.

Specifically, we would like to request that you write back to our office indicating:

- ▶ What Tribal organizational unit will be responsible for 401 certifications;
- ▶ What process(es) the Tribe intends to use to make certification decisions; and
- ▶ How the Band would follow up on any disputes that arise (e.g., if the Tribe were to object to a permit decision, and the permittee then asked the Tribe to re-consider the decision). For example, would the Band follow its Tribal law equivalent to the Federal Administrative Procedures Act, if the Band has such a provision?

Please send the above information to Bob Newport of my staff. Mr. Newport can be reached at (312) 886-1513. The mailing address is 77 W. Jackson Blvd., Mail Code WS-15J, Chicago, IL 60604.

Thank you very much for your continuing work on water quality issues and programs. If you have any questions regarding this letter or would like additional information on Clean Water Act Section 401 certifications, please contact Bob Newport at the number above, or Barbara Wester of our Office of Regional Counsel at (312) 353-8514.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Josi Lisner". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

for Jo Lynn Traub
Director, Water Division

cc: Chris Berini, Tribal Environmental Department

bcc: Barbara Wester, C-14J
Rodger Field, C-14J
Kathy Mayo, WT-15J
Dave Pfeifer, WT-15J
Bob Newport, WS-15J
Mary Pat Tyson, WS-15J